IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1576 OF 2007

Royal Palms (India) Pvt. Ltd.,
and 3 Ors. ..Petitioners.
Versus
M/s.SVM Engineers Pvt. Ltd.
and State of Maharashtra. ..Respondents.

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Mr.M.A.Dharmraj, Adv. with Mr.M.K.Dubey, Adv. for the Petitioners.
Mr.A.R.Patil, APP, for the State.
Mr.P.D.Prasad Rao, Adv. for Respondent No.1.

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CORAM : S.B.MHASE AND
SMT.V.K.TAHILRAMANI,JJ.

DATED : DECEMBER 17, 2007.

P.C.:-

1. Heard.

2. The grievance of the petitioners can stands redressed if the Chief Metropolitan Magistrate is hereby directed to dispose of the transfer application No.62 of 2007 within a week from the date of receipt of the order of this Court. Infact the transfer application was entertained by the Chief Metropolitan Magistrate when the evidence in the case

was complete and the arguments were being heard in a matter which is pending from 2002. The Chief Metropolitan Magistrate should have been cautious enough in entertaining this application at such a belated stage. Above all, it also appears that the Chief Metropolitan Magistrate gave a direction to the effect that the Metropolitan Magistrate shall not proceed with the hearing of the case till 18.6.2007 and thereafter no further directions have been given. This puts the other Magistrate in a difficult situation because there is no stay order from the Chief Metropolitan Magistrate extended and, therefore, the Court is at loss as to whether the Court shall hear or not hear the matter. Under these circumstances, the Chief Metropolitan Magistrate should have disposed of the transfer application on merits. Keeping the application pending without extension of the stay order and/or vacating the interim stay order, keeps the Metropolitan Magistrate in a embarrassing position in view of the certain allegations made against him and, therefore, the fair play requires that the Chief Metropolitan Magistrate ought to dispose of the transfer application on merits without giving any opportunity to the parties

to protract the matter which is pending for years together. This aspect of judicial propriety has been completely lost sight of by the Chief Judicial Magistrate while keeping the transfer application pending either without vacating the stay order and/or without extending the stay order. In the facts as they are, we hereby direct the Chief Metropolitan Magistrate that he shall dispose of the transfer application NO.62 of 2007 within a period of seven days after receipt of the writ of this Court, on its merit after hearing the concerned Advocates; and in the light of the disposal of the transfer application the Metropolitan Magistrate shall dispose of the case in accordance with the law.

3. With the above observations and directions, Writ Petition is disposed of.

[SMT.V.K.TAHILRAMANI,J.] **[S.B.MHASE,J.]**